

P-160678

97079120

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

ADA CO. RECORDER
J. DAVID NICHOLS
BOISE ID

FOR

PIONEER TITLE

SOUTHPOINT SUBDIVISION NO. 1

'97 SEP 25 PM 4 36

FEE 87⁰⁰ DEP [Signature]
RECORDED AT THE REQUEST OF

THIS DECLARATION is made on the last date hereinbelow set forth, by Boulder Creek Associates, L.L.P., an Idaho Limited Liability Partnership, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of certain real property in the County of Ada, State of Idaho, hereinafter referred to as the "property", more particularly described as follows:

Lot 1, Block 1; Lot 1, Block 2; Lot 1, Block 3; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31, Block 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, Block 5; Lot 1, Block 6; Lot 1, Block 7; Lot 1, Block 8; Lot 1, Block 9; Lot 1, Block 10; Lots 1, 2, 3, 4, 5, 6, and 7, Block 11 of Southpoint Subdivision No. 1 according to the official plat thereof recorded as Instrument No. 97032375, recorded in Book 73 of Plats at pages 7581, 7582, and 7583, records of Ada County, Idaho.

WHEREAS, Declarant desires to place covenants, conditions, and restrictions on the property to protect value, attractiveness, compatibility, and conformity of the use of the various lots and common areas;

NOW, THEREFORE, Declarant hereby declares that all of said property is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions, and reservations hereinafter set forth. Said easements, covenants, restrictions, conditions, and reservations shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and shall inure to the benefit of and be limitations upon all future Owners of said property or any interest therein.

ARTICLE ONE

Definitions

- 1.1 "Association" shall mean and refer to Southpoint Homeowners Association, Inc., an Idaho non-profit corporation, its successors and assigns.
- 1.2 "Declarant" shall mean and refer to Boulder Creek Associates, L.L.P., an Idaho Limited Liability Partnership, its successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped lot from the Declarant for the purpose of development.
- 1.3 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property. A "corner lot" is one that is bounded by street to the front of the lot and by another street to the side of the same lot.
- 1.4 "Common Area" shall mean all lots (including improvements thereon) owned by the Association for the common use, enjoyment, or benefit of all Owners. The specific common area lots are more particularly described in Article Ten to this Declaration.
- 1.5 "Member" shall mean and refer to every person or entity who holds membership in the Association.
- 1.6 "Mortgage" shall mean and refer to any mortgage or deed of trust, and "mortgagee" shall mean and refer to the mortgagee under a mortgage or the beneficiary under a deed of trust, and "mortgagor" shall mean and refer to the mortgagor of a mortgage or the grantor of a deed of trust.
- 1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is a part of the property, including contract buyers, but excluding those holding a mortgage or those persons otherwise claiming an interest in a lot as security for the performance of an obligation.
- 1.8 "Plat" shall mean the recorded plat of Southpoint Subdivision No. 1, official records of Ada County, Idaho.
- 1.9 "Setback" shall mean and refer to the minimum distance between the lawful location of a residence on a lot from a given street or road or from a lot line as provided by the plat of Southpoint Subdivision No. 1.
- 1.10 "Architectural Control Committee" shall mean a designated unincorporated association of three individuals to be

appointed by the Declarant, whose function shall be to review and approve or disapprove each application for the construction of a residence on a lot and to take those other actions authorized by this Declaration.

- 1.11 "Water District" shall mean Nampa and Meridian Irrigation District, who shall supply water to the pressurized water system according to Article Eight.
- 1.12 "Service Provider" shall mean either the Water District or another entity that has contracted with the Declarant or the Association to own and/or operate, maintain, and repair the pressurized irrigation system and make corresponding assessments, all according to Article Eight.
- 1.13 "Highway District" shall mean Ada County Highway District or "ACHD" who shall operate and maintain storm drainage facilities located in public rights of way subject to those limitations set out in Article Four.

ARTICLE TWO

General Restrictions

- 2.1 Lands use. Each lot shall be used solely for residential purposes and shall not be used for the conduct of trade, business, or professional activities, except as may be permitted as follows:
 - a. Those business activities which may be conducted through a "home office" or telephone sales services or the like, which have no visual business appearance can be conducted as long as they are otherwise permitted by the laws of the City of Boise in an R-I residential zone; and
 - b. The Declarant is authorized to construct a building which may be used as a subdivision sales office or temporary office quarters for business activities pertaining to the development and/or sales of lots; and
 - c. The construction trades shall be permitted to construct or use temporary facilities used solely for the purpose of aiding in the construction of a residence on a lot which use will be eliminated after the construction is complete.
- 2.2 Residence Construction. Each Owner, including any contractor, builder, or agent for an Owner, intending to construct a residence or improve an existing residence on any lot shall do so only if the following conditions have been met:

- a. The Owner shall first submit an application for construction authority to the Architectural Control Committee ("ACC") and receive from the ACC its written approval, according to the provisions of Article Nine.
 - b. Each residence constructed on a lot shall be a "single-family" dwelling as defined by building codes applicable to Ada County and shall have a garage with at least two (2) bays suitable for vehicle storage.
 - c. A residence shall only be constructed if the Owner, including any contractor, builder, or agent acting on behalf of the Owners, has obtained a building permit from Ada County and any other governmental agency with jurisdiction over residential construction on a lot, in addition to ACC approval.
 - d. All residential construction, including outbuildings and all other residential accommodations, shall strictly follow all of the covenants, conditions, and restrictions in this Declaration.
- 2.3 Setbacks and Utility Corridors. Each dwelling shall be constructed within the minimum setback regulations as established by Ada County and/or those that are described on the plat. An Owner shall not place any permanent obstruction in a utility corridor identified on the plat.
- 2.4 Landscaping. The following provisions shall govern the landscaping of all lots in Southpoint Subdivision No. 1:
- a. The Owner at his sole and separate cost shall cause the lot to be landscaped in a style complimentary to the style, size, and value of the residence which landscaping shall include, as a minimum, providing for lawn areas in front, side, and back yards either by sod or grass seed planting.
 - b. All landscaping, including connections to the pressurized irrigation system, shall be fully installed and completed within one hundred eighty (180) days after completion of the residence on the lot. Completion of the residence shall mean a state of completion sufficient to obtain an occupancy permit.
 - c. In the event an Owner shall fail to provide minimum landscaping, the Declarant and/or the Association may cause the minimum landscaping to be completed at the Owner's cost and may file a lien for that value and recover any cost advanced in the same fashion as is

provided for non payment of assessments as set out in Article Five.

- 2.5 Fences. Declarant intends to construct a perimeter fence around the boundaries of the property. An owner may elect at his sole and separate cost to construct a lot fence but only if the following conditions are met:
- a. A fence may be constructed on a lot (other than a corner lot) but the fence shall not extend into the front yard nor beyond a line running parallel to the front of the main residence (excluding porches and/or architectural detailings); and
 - b. A fence may be constructed on a corner lot but the fence on the side bounded by the street may not be closer than fifteen feet (15') to the street right of way on the side parallel to the street side; and
 - c. If the lot is an exterior lot (a lot where the back yard abuts the subdivision perimeter fence), then the owner must use the perimeter fence as the owner's back fence; and
 - d. Every fence shall be six feet in height, the vertical pickets shall be 4" dog-eared cedar, with cedar 4" x 4" posts exposed to the view from the outside of the lot; and
 - e. The cedar fence may be sealed or clear finished but shall not be painted or stained.
- 2.6 Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the other lot Owners.
- 2.7 Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder or the Declarant to advertise the property during a construction and sales period. The names of resident Owners may be displayed on a name and address plaque attached to the residence.
- 2.8 Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

- 2.9 Permitted Use of Vehicles and Recreational Equipment. An Owner shall not park any business or commercial vehicle greater in size than three-quarters (3/4) of a ton unless the same is fully garaged. An Owner shall not park on any lot or adjacent street a vehicle which is not operable or which is non-working or unsightly. An Owner shall not park a vehicle with a "for sale" sign on any lot or adjacent street. An Owner may store or park recreational equipment, such as boats, snowmobiles, trailers, motorcycles, and the like, in a rear yard if and only if the rear yard is fenced and the recreational equipment when parked cannot be visually observed above the height of the fence by a person standing at street level.
- 2.10 Motor Homes/Recreational Vehicles. Except for the purpose of loading or unloading, an Owner shall not park or store motor homes or "RV's", on a lot or adjacent street unless the same is fully garaged. A visitor of any Owner shall be permitted to park a motor home at the Owner's lot or dwelling for a period not to exceed six (6) days.
- 2.11 Hazardous Activities. No activity shall be conducted on or in any residence, lot, or common area which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearm shall be discharged upon said property, and no open fire shall be lighted or permitted on any property except in a self-contained barbecue unit while attended and in use for cooking purposes, or within a safe and operational interior fireplace.
- 2.12 Lights and Sound, Generally. No Owner shall install lights which omit an offensive glare, however, an Owner may install a yard or security light which can be continuously operated by the Owner from one hour after dusk to one hour before dawn. No sound shall be emitted from any lot which is unreasonably loud or annoying, and no odors shall be emitted on any lot which are noxious or offensive to others.
- 2.13 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and provided that the keeper of such pets complies with all county laws, rules, and regulations. All dogs, cats, or household pets shall be properly fed and cared for. Dogs shall not be allowed to run at large, and no dog, cat, or other household pet may be kept which unreasonably bothers or constitutes a nuisance to other Owners of lots. An Owner may construct a dog run on his lot provided that the dog run is not more than six feet (6') in width, not more than ten feet (10') in

length, and not more than six feet (6') in height and is not placed closer than fifteen feet (15') from a side or rear lot line and is no closer to the front of a front lot than a point where the Owner could construct a fence under paragraph 2.5 above.

- 2.14 Reconstruction. In any case where it is necessary to reconstruct a residence or make any improvement to a residence on a lot, that reconstruction or improvement shall be prosecuted diligently, continuously and without delay from time of commencement thereof until such structure is fully completed, unless prevented by cause beyond control and only for such time as such cause continues.

ARTICLE THREE

Utilities and Utility Easements

- 3.1 Utility Services. All lots shall be served with underground utility lines for power, gas, water, sewer, and telephone services; which utilities shall be installed in the streets or in the platted easement rights-of-way. The costs of bringing these services to the Owner's lot are the sole and separate cost of the Declarant and Declarant is entitled to recover any and all connection fees or escrowed funds advanced by Declarant, if any, to bring these services to the lots of the subdivision. The Owners, or the Owner's builder constructing an Owner's residence, shall be liable for any additional costs for final hookups charged by a utility company as a condition precedent to final connection as well as any other utility service not supplied by Declarant.
- 3.2 Platted Easements. Declarant reserves a right-of-way or easements as shown and noted on the plat of the subdivision for the purpose of constructing water mains, electric distribution lines, sewer lines, gas pipelines, and such other public utilities as may be necessary, convenient, and desirable for the Owners of lots within the subdivision.

ARTICLE FOUR

Homeowners Association

- 4.1 Organization of Association. The Southpoint Homeowners Association, Inc. ("Association") shall be organized by Declarant as an Idaho corporation under the provisions of Idaho Code relating to general non-profit corporations and shall be charged with the duties and invested with the powers prescribed by law and set forth in the articles of incorporation, by-laws, and this Declaration. Neither the articles of incorporation nor the by-laws shall, for any reason, be

amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

- 4.2 Membership. Each lot Owner (including Declarant), by virtue of being such an Owner and for so long as such ownership is maintained, shall be a member of the Association. Membership in the Association shall not be assignable except to the successor in interest of an Owner, and each membership in the Association shall be appurtenant to the lot owned by such Owner. Membership in the Association shall not be transferred, pledged, or alienated in any way except upon the transfer of title to said lot, and then only to the transferee of title to said lot. Any attempt to make a prohibited transfer of membership shall be void and will not be reflected on the records of the Association.
- 4.3 Classes of Voting Members. The Association shall have two classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate classes may otherwise be provided in the Articles and Bylaws of the Association of this Declaration.,
- a. Class A members shall be Owners with the exception of the Declarant (during the period when the Declarant is a Class B Member). Each Class A member shall be entitled to one vote for each lot owned. When more than one person is an owner of a lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.
 - b. The sole Class B member shall be the Declarant, who shall be entitled to three votes for each lot owned. Class B membership shall cease and be converted automatically to Class A membership (one Class A membership for each lot owned) upon the happening of either of the following events, whichever occurs earlier:
 - (i) When seventy-five percent (75%) of the lots have been conveyed by deed to Owners other than Declarant; or
 - (ii) On January 15, 2000.
- 4.4 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of three Directors and such officers as the directors may elect or appoint, in accordance with the articles of incorporation and by-laws. The initial Board of Directors of the Association shall be appointed by the Declarant as the incorporator and shall hold office until

the first annual meeting, at which time a new Board of Directors shall be elected in accordance with the provisions set forth in the by-laws.

4.5 Powers of the Association. The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Idaho, subject only to such limitations upon the exercise of such powers as are expressly set forth in the articles of incorporation, the by-laws, and this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by it under this Declaration, the articles of incorporation, and the by-laws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the proper management and operation of and the performance of the other responsibilities herein assigned, including without limitation:

- a. Assessments: The power to levy assessments (monthly, special, and limited) on the owners of lots and to force payment of such assessments, all in accordance with the provisions of this Declaration.
- b. Right of Enforcement: The power and authority from time to time, in its own name, on its own behalf, or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the articles of incorporation or by-laws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise all provisions hereof.
- c. Delegation of Powers: The authority to delegate its power and duties to committees, officers, employees, or to any person, firm, or corporation to act as manager. Neither the Association nor the members of the Board of Directors shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.
- d. Emergency Powers: The Association or any person authorized by it may enter upon any lot in the event of any emergency involving illness or potential danger to life or property, or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable, and any damage caused thereby shall be repaired by the Association and at its sole cost and expense.

- e. Association Rules. The power to adopt, amend, and repeal by majority vote of the Board of Directors such rules and regulations as the Association deems reasonable (the "Association rules"). The Association rules shall govern the use of the common areas by the Owners, families of an Owner, or any invitee, licensee, lessee, or contract purchaser of an Owner; provided, however the Association rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles of Incorporation, or the By-laws. A copy of the Association rules, as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each owner. Upon such mailing or delivery to all Owners and posting upon the common areas, said Association rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any Association rule and any other provision of this Declaration or the Articles or By-laws, the provisions of the Association rules shall be superseded by the provisions of this Declaration, the Articles, or the By-laws to the extent of any such inconsistency.
- f. Licenses, Easements, and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on, or under the common areas as may be necessary or appropriate for the orderly maintenance and preservation of the health, safety, convenience, and welfare of the owners, or for the purpose of constructing, erecting, operating, or maintaining:
- (i) Underground lines, cables, wires, conduits, and other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes;
 - (ii) Public sewers, storm drains, water drains and pipes, water systems, sprinkling systems, water, heating, and gas lines or pipes; and
 - (iii) Any similar public or quasi-public improvements or facilities.

The right to grant such licenses, easements, and rights-of-way are hereby expressly reserved to the Association.

- 4.6 Duties of the Association. In addition to the powers granted to it by the articles of incorporation and this Declaration, and without limiting the generality thereof, the Association

or its agent, if any, shall conduct all general business affairs of common interest to all Owners including the following:

- a. Operation and Maintenance of Common Area. Operate, maintain, and otherwise manage or provide for the operation, maintenance, and management of any common area, including the repair and replacement of property damaged or destroyed by casualty loss, and all other property acquired by the Association.
 - (i) Maintenance and cost of operation and replacement of all street lamps, street lights, and decorative lighting is the responsibility of the Association until such time as the property is annexed by the City of Boise
 - (ii) Maintenance of the boundary fence around the perimeter of the property (including repair or replacement of damaged sections and maintaining paint in good repair) is the responsibility of the Association.
- b. Taxes and Assessments. Pay all real and personal property taxes and assessments separately levied against the common area owned and managed by the Association or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided, however, that such taxes and assessments be paid or a bond insuring payment be posted prior to the sale or disposition of any property to satisfy the payment of such taxes or assessments. In addition, the Association shall pay all other taxes, whether federal, state, or local, including income or corporate taxes levied against the Association in the event that the Association is denied the status of a tax-exempt corporation.
- c. Water and Other Utilities. Acquire, provide, and/or pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, and gas and other necessary services for the common area and other property owned or managed by it.
- d. The Association may, but shall not be required to, obtain policies of insurance from reputable insurance companies authorized to do business in the State of Idaho, and to maintain in effect the following types of policies of insurance:

- (i) Comprehensive public liability insurance insuring the Board of Directors, the Association, the Declarant, the individual owners, and the agents and employees of each of the foregoing, against any liability incident to the ownership and/or use of the common area or other property owned or managed by the Association.
 - (ii) Such other insurance, including Worker's Compensation Insurance to the extent necessary to comply with all applicable laws, directors and officers liability insurance, and such indemnity, faithful performance, fidelity, and other bonds as the Board of Directors shall deem necessary or required to carry out the Association's functions or to insure the Association against any loss from malfeasance or dishonesty or any employee or other person charged with the management or possession of any Association funds or other property.
 - (iii) Insurance premiums for the above insurance coverage shall be deemed a common expense to be included in the annual assessments levied by the Association.
- e. Pressurized Irrigation System. Provide for the use of common area use of this system in concert with the Service Provider.
 - f. Operation and Maintenance of Drainage Facilities. It is the primary responsibility of the Highway District (ACHD) to operate and maintain all storm drainage facilities located in public rights of way. However, when any part of the storm drainage system falls outside of the street right of way, the responsibility of operation and maintenance of the portion of the system lying outside of right of way shall belong to the Association.

The storm drainage system for the property subject to this Declaration consists of catch basins, seepage beds and monitoring wells. These facilities can be seen on construction plans for the Southpoint Subdivision No. 1 which are incorporated by reference and are on file at ACHD.

This provision shall detail what portions of the storm drainage system is ACHD's responsibility and what portions is the Association's responsibility.

Monitoring Wells. The monitoring wells shall be inspected by the Association three times a year on May 15, August 15, and November 15, as follows:

Groundwater monitoring well:

Remove the lid and probe the well to determine a) if there is a water table present and b) if so, what is its elevation. If it's determined that there is a water table present above the bottom of the sand layer, report the findings to the Maintenance Division of ACHD. If determined by ACHD, the affected bed may have to be reconstructed above the water table.

Also, if water is found in any monitoring well, the Association should retain a professional engineer to represent the Association in whatever discussions occur with the ACHD.

If the storm drainage run off into the catch basins appear sluggish, it may be necessary to clean the pipe between the sand and grease traps and the seepage beds. However, if storm run off is not freely draining into catch basins, call the ACHD for maintenance of their facilities in the street right-of-way. If the drainage problems persist after ACHD completes their cleaning, the Association shall clean the 12" pipe using high pressure jetting.

Seepage Beds. Routine maintenance of the seepage beds is not necessary. However, it is important to limit the landscaping over the beds by complying with the limitations shown on the final plat.

Definition of Heavy Maintenance. Heavy maintenance is defined as periodically inspecting and cleaning the facility when sediment levels exceed designed storage levels.

- 4.7 Personal Liability. No member of the Board of Directors or any committee of the Association, nor any officer of the Association, nor the manager if any, nor the Declarant, shall be personally liable to any Owner or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board of Directors, the manager if any, or any other representative or employee of the Association, the Committee, or any other committee, or any officer of the Association, or the Declarant, provided such person has, upon the basis of such information as may be

possessed by him, acted in good faith without wilful or intentional misconduct.

- 4.8 Dissolution. In the event the Association is dissolved, the assets of the Association shall be dedicated to a public body or conveyed to another non-profit organization with similar purposes.

ARTICLE FIVE

Covenant for Assessments

- 5.1 Creation of Lien and Personal Obligation for Assessments. The Declarant hereby covenants with each lot Owner within the property that by acceptance of a deed from Declarant, and whether or not it is expressly stated in said deed, that each lot Owner shall agree to pay to the Association, the following:

- a. All regular assessments for specified services and maintenance as set forth in 5.3; and
- b. All special assessments for specified services and maintenance as set forth in 5.4.

Each assessment, together with interest accrued thereon shall be a charge on the lot Owner's land and shall create a continuing lien upon the Owner's lot against which each assessment is made from and after the date the assessment is due. Each assessment shall bear interest at the rate of thirteen (13%) per cent annum to accrue after the due date until fully paid. Additionally, each assessment and accrued interest shall be the personal obligation of the Owner of the lot assessed at the date of assessment and may be collected by judicial action in the nature of a delinquent open account, which action may be in lieu of or in addition to the foreclosure of the lien created against the Owner's lot. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by the successor.

Any collection action, whether it be by lien foreclosure and/or by action on a delinquent account shall require the Owner of the lot assessed to also pay reasonable attorney fees and court costs to be included as a part of the debt to the Association.

Prior to bringing an action to foreclose the continuing assessment lien granted by this Article, the Association shall cause a notice of lien claim to be prepared and filed of record with the Ada County Recorder's office and shall send a

copy by certified mail to the delinquent lot Owner. The cost of preparing, filing and mailing this claim of lien, including a reasonable attorney fee incurred by the Association, shall also be the cost of the delinquent lot Owner and shall be recovered from the lot Owner.

- 5.2 Initial Assessment. Each lot sold by Declarant shall be subject to a one-time initial assessment of \$150.00 to be paid by the first true consumer-owner to the Declarant. This initial assessment shall not be paid by an owner-builder but shall pass through to the consumer-owner at a closing of a sale by the builder-owner. The Declarant, or if applicable, the owner-builder shall instruct the closing agent to make direct payment of this initial assessment to the Declarant in the same manner as other purchaser closing costs are paid.
- 5.3 Regular Periodic Assessments. Each lot Owner shall also be assessed and pay a regular periodic assessment to begin to accrue 30 days after the issuance of a certificate of occupancy, which regular assessments are to be used by the Association for the purpose of maintenance of the common area lots, paying costs incurred for policies of insurance purchased by the Association, and/or providing for any other regular business activities of the Association. The Association may elect to collect these periodic assessments on a monthly, quarterly, semi-annual, or annual basis, as it deems appropriate. The beginning assessment annualized for the year 1997 shall be \$190.00, based upon an estimate made by the Declarant for the cost of services anticipated. This periodic assessment can be automatically increased by the Directors of the Association by as much as 20% per year beginning with the year commencing January 1, 1998. It may be increased by more than 20% by a majority vote of the members at a meeting called for that purpose by the Directors.
- 5.4 Special Assessment for Repairs, Operations, or Maintenance. In addition to the regular periodic assessments, the association, by the majority vote of its members at a meeting called for that purpose, may make any special assessment for a specific one-time cost or expense benefiting the common lot areas or for some common interest or purpose benefiting all members.
- 5.5 Notice of Action under Section 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3 and/or 5.4 of this Declaration shall be sent to all members not more than fifty (50) days nor less than ten (10) days in advance of the meeting.

- 5.6 Miscellaneous Assessment Information. The directors shall annually re-establish the amount of the regular periodic assessment per lot each November of each year and shall send written notice of that re-assessment to each Owner thirty (30) days before the effective date of the re-established regular periodic assessment.

The Association shall, upon request and for a reasonable charge, furnish a certificate signed by officers of the Association stating whether or not assessments by the requesting Owner are current.

- 5.7 Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed to be delinquent and shall bear interest from the due date at the rate of thirteen (13%) per cent per annum. The Association may bring an action at law against the Owner personally obligated to pay the delinquent assessment or may record and foreclose a lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

- 5.8 Subordination of Assessment Liens to Mortgages. The lien of any unpaid assessment shall be subordinate to any first mortgage or deed of trust against a lot. No mortgagee of a mortgage or beneficiary of a deed of trust shall be required to collect any unpaid assessment. The failure of a lot Owner to pay assessments shall not constitute a default under a mortgage or deed of trust. Sale or transfer of a lot shall not affect the assessment lien, nor shall the transferee in such sale or transfer be relieved from liability for any assessment thereafter becoming due or from the lien thereof.

ARTICLE SIX

Special Boise City Requirements

- 6.1 Location of Subdivision. Declarant notes that the land described on page one of these Declarations is not as of the recording of this Declaration, land within the City limits of the City of Boise. Nevertheless, the City of Boise claims that this land is within its "area of impact" and that it has the lawful authority to impose additional requirements to these Declarations as well as to approve the form of this Declaration. In that regard, the following are specific requirements of the City of Boise:

- a. In the event that an Owner's lot is connected in the future to the Boise City public sewer system, the lot Owner shall:

- (1) Agree to pay standard monthly sewer charges;
 - (2) Submit to an inspection by either the Department of Public Works or the Building Department as regards the connection;
 - (3) The lot Owner consents to an enforcement action by the City of Boise for a follow up of the requirements of (1) and/or (2); and
- b. The recording of the plat shall be deemed and construed as a request by Declarant to have the property annexed by the City of Boise; and
 - c. That if private street lights are installed by the Declarant, that the use, control, and maintenance of these private street lights shall be approved by the City of Boise and the Homeowners Association shall agree to control and maintain these private street lights until such time as the property has been annexed by the City of Boise.

ARTICLE SEVEN

Solar Access Conditions and Restrictions.

7.1 The City of Boise requires that all of Article Seven entitled "Solar Access Conditions and Restrictions" must be included.

a. Definitions.

- (1) Exempt Tree. Any preexisting vegetation as defined in Article II, Section B or any vegetation included on the list of solar friendly vegetation kept by the City of Boise's Public Works and Community Planning and Development Departments.
- (2) Front Lot Line. The line represented by the connection of the most distant corners of a lot, including flag lots, where said corners are in common with the boundary of a public or private road. For corner lots, the front lot line is designated on the plat.
- (3) North Slope. The gradient, in percent slope, from the average finished grade of the front lot line of the shade restricted lot to the average finished grade of the solar lot line of a solar lot. The slope must be downward or decreasing in elevation from south to north.

- (4) Restricted Vegetation. A tree or other vegetation which is either evergreen, or if deciduous, tends to retain its leaves late in the fall and/or drop them late in the spring, or has a dense branching pattern which generally tends to block a high level of the sun's rays during the heating season. Refer to the list of "solar friendly" trees on file with the Boise City Public Works and the Community Planning and Development Departments.
- (5) Shade. That portion of the shadow cast by the shade point of a structure or vegetation which exceeds the 11.5 foot fence at the solar lot line at solar noon, January 21.
- (6) Shade Point. That part of a structure, tree or object, on a shade restricted lot, which casts the longest shadow (the most northerly shadow) when the sun is due south on January 21st at an altitude of twenty-six (26) degrees above the horizon, except a shadow caused by a narrow object such as a chimney, antenna, utility pole, wire, etc.
- (7) Shade Point Height. The vertical distance of height measured from the average elevation at the solar lot line to the shade point. If the shade point is located at the north end of a ridge line of a structure oriented within 45 degrees of a geodetic north-south line, the shade point height computed according to the preceding sentence may be reduced by 3 feet. If a structure has a roof oriented within 45 degrees of a geodetic east-west line with a pitch which is flatter than 6 feet (vertical) in 12 feet (horizontal), the shade point will be the cave of the roof. If such a roof has a pitch which is 6 feet in 12 feet or steeper, the shade point will be the peak of the roof.
- (8) Shade Restricted Lot. Any lot within the subdivision that is southerly of and adjacent to a solar lot. These lots have some restriction of vegetation types and structure height.
- (9) Solar Friendly Vegetation. A tree or other vegetation which is included on the solar friendly vegetation list by the City of Boise's Public Works and Community Planning and Development Departments.

- (10) Solar Lot. A lot so designated on the recorded plat of Southpoint Subdivision No. 1 which has the following characteristics:
 - (a) The front line is oriented within thirty (30) degrees of a geodetic east/west bearing;
 - (b) The lot to the immediate south has a north slope of ten (10) percent or less;
 - (c) Is intended for the construction of above ground inhabited structure.
- (11) Solar Lot Line. The most southerly boundary of a solar lot: the line created by connecting the most distant southerly corners of the solar lot.
- (12) Solar Setbacks. The minimum distance, measured perpendicular in a southerly direction, from the center of the solar lot line to the shade point of a structure or to restricted vegetation based upon its height at maturity on the shade restricted lot.

b. Restrictions.

- (1) Shade Restriction. Each lot within the subdivision which is classified as a shade restricted lot shall have the following restrictions: Any structure or restricted vegetation (solar unfriendly) cannot cast a shadow higher than an imaginary fence 11.5 feet above the solar lot line on solar noon of January 21st when the sun is at an angle of 26 degrees above the horizon. This sun angle at noon on January 21 causes structures, vegetation, and other objects to cast a shadow twice as long as their height. The height of the shade point of a structure on the shade restricted lot is limited to 19 feet at the 15 foot rear yard zoning setback in order that the 11.5 foot high "solar fence" at the property line of the shade restricted lot is not exceeded. These standards assure that a structure built to the 15 foot rear yard zoning setback, on the solar lot located to the north, will not be shaded more than 4 feet above grade on its south wall on January 21 at solar noon.
- (2) Preexisting Vegetation. Restricted vegetation (solar unfriendly), which existed when the subdivision was platted is exempt from the provisions of these covenants, conditions, and

restrictions. Any lot which would be shaded beyond the allowed shade limit by such vegetation shall not be classified as a solar lot.

- (3) Slope Exemption. Any lot with an average finished grade slope along the north-south lot dimension greater than ten (10) percent shall be exempt from the terms and conditions of these covenants, conditions, and restrictions.
- (4) Solar Setbacks. Each separate structure and item of restricted vegetation shall have a solar setback dependent on and calculated by its shade point height. All shade restricted lots shall have the following solar setback (in feet) = [shade point height in feet - 11.5'] x 2. Table 1 below shows a few examples of solar setbacks for given shade point heights:

SOLAR SETBACKS REQUIRED FOR A GIVEN SHADE
POINT HEIGHT

shade point height	solar setback
10'	0'
15'	7'
20'	17'
25'	27'
30'	37'

- (5) Solar Friendly Vegetation. Certain vegetation is considered "solar friendly" and is not restricted as regards to location on individual lots. Such vegetation is deciduous, droppings its leaves early fall and regaining them during late spring. Such vegetation also has sparse branching which allows high levels of sunlight to penetrate through. This growth cycle produces a shading during summer but allows sun to penetrate during winter. A list of acceptable solar friendly trees is maintained by the Boise City Public works and Community Planning and Development Departments.
- (6) Solar Access Rights, Duties, and Responsibilities.
- (i) Solar Access Rights. The owner(s) of solar lots shall have the right to unobstructed

solar access in accordance with these covenants, conditions, and restrictions.

- (ii) Solar Access Duties. The Owner(s) of any lot shall not build, install, or otherwise allow a structure or not solar friendly tree on that lot to cast more shade at their solar lot line than permitted under these solar access covenants, restrictions, and conditions.

(7) Miscellaneous.

- (i) Enforcement and Non-Waiver. Any lot owner shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, any violation or threatened violation of a provision of this Article 7. The failure of any person to enforce any covenant or restriction contained in Article 7 shall be deemed a waiver of the rights granted herein, unless suit is instituted prior to the completion of construction or installation of the alleged violating improvement or dwelling. Waiver of one breach does not constitute waiver of any other breach. Declarant assumes no obligation or duty whatsoever to enforce, monitor, or insure compliance with the terms, conditions, and restrictions of this Article 7 and Declarant shall not be liable or responsible to the City of Boise, any lot owner, builder, or other party whatsoever as a result of any violation or threatened violation of the restrictions of this Article 7. Enforcement of this Article 7 shall be handled by the City of Boise or the individual lot owners of the Southpoint Subdivision No. 1.
- (ii) Severability. Invalidation of any one of these covenants or restrictions in this Article 7 by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- (iii) Duration and Applicability to Successors. The covenants, conditions, and restrictions set forth in this Article 7 shall be in effect as provided by these covenants, shall run with the land, and shall inure to the benefit of and be binding upon the Declarant and all lot

owners in the subdivision and their successors in interest.

- (iv) Amendment. This Article 7 may be amended by the action of the owners of a majority of the lots in the subdivision affected by such amendment provided the amendment does not reduce the amount of solar access protection provided to the subdivision and the amendment is approved by the City of Boise.

ARTICLE EIGHT

Pressurized Irrigation System

- 8.1 Pressurized Irrigation System and Assessments. Each Owner understands that the Declarant has installed a pressurized irrigation system throughout the subdivision to be able to deliver irrigation water service to each lot in the subdivision from irrigation water rights appurtenant to the subdivision, which irrigation water is delivered to a site within the subdivision by Nampa and Meridian Irrigation District, hereinafter "Water District". Declarant may enter into an agreement with the Water District, pursuant to I.C. § 43-440A, et seq, whereby the Water District will own and operate the system and each lot Owner will receive a direct assessment from the Water District for a prorata cost of the service whether or not the water is actually used. In such case, the Water District would also be the "Service Provider" of the irrigation water to the end lot owners/users. Alternatively, Declarant may enter into an agreement with a third party other than the Water District (including an entity in which Declarant or principals of the Declarant will hold an interest) who would then act as the Service Provider of irrigation water from the pressurized water system to each lot in the subdivision and charge each lot Owner with a prorata lot charge assessment whether or not water is actually used.

Irrespective of whether the pressurized irrigation water is provided by the Nampa and Meridian Irrigation District, or by another Service Provider, the Service Provider shall also operate, maintain and repair the pressurized system and may also levy and collect annual assessments against each lot served by the system to defray the cost and expense of such operation, maintenance, repair, or replacement as is specified in the agreement, which may include a reasonable profit margin for such service.

Declarant has also entered into a contract with two property owners of land adjacent to the subdivision but not a part of the subdivision, which contract allows those two property

owners to receive their allotted irrigation water rights through the irrigation water system as it has now been constructed. Those two adjacent property owners are identified as Larry Norman of 2095 S. Five Mile Road, Boise, Idaho, and Warren Bassford of 2055 S. Five Mile Road, Boise, Idaho. The intent of the contract with these two adjacent owners is that the benefits of obtaining their irrigation water through the pressurized irrigation water system, should run to the owners of this existing land as an appurtenant right. The Service Provider shall include these two adjacent properties in the contract to make assessments for the delivery of water and for the repairs or maintenance of the system, but the quantity allowed by their respective rights shall not be altered by their delivery through the pressurized system.

When a final contract has been reached with a Service Provider, it shall be written and recorded in the records of Ada County, Idaho, and shall become a part of this Declaration by reference as if it had been recorded as a part of this Declaration.

- 8.2 Prohibitions. Lot Owners are prohibited from making any cross connection or tie in between the irrigation water system and their domestic water system. **WATER FROM THE IRRIGATION WATER SYSTEM IS NOT DRINKABLE; EACH LOT OWNER SHALL BE RESPONSIBLE TO ENSURE THAT IRRIGATION WATER WITHIN THE BOUNDARIES OF HIS/HER/THEIR LOT IS NOT CONSUMED BY ANY PERSON OR USED FOR CULINARY PURPOSES.**

Lot Owners shall not construct any ditch, drain, well or water system upon any lot or common area.

- 8.3 Use and Rules. The Association, through its Directors, unless otherwise established by Water District, or by another Service Provider, may establish and serve on each lot Owner a set of rules establishing the use of this irrigation water including time of use and duration, recognizing that the system will not permit all lots to use the irrigation water simultaneously. The Association may also elect or contract for hire a water master to designate a rotation schedule. The Owner agrees to follow these rules and the schedules set by a water master.

ARTICLE NINE

Architectural Control

In order to protect the quality and value of the homes built in the project and for the continued protection of the Owners thereof, an Architectural Control Committee (ACC) is hereby

established consisting of three members to be appointed by Declarant as long as Declarant owns lots in the project. Thereafter, the Architectural Control Committee shall be appointed by the Board of Directors of the Association.

9.1 Approvals Required. No building, residence, or residential outbuilding of any type shall be commenced, erected, or installed upon any lot until the plans and specifications showing the nature, kind, shape, configuration, height, materials, location of the same and such other detail as the ACC may require (including but not limited to any electrical, heating, or cooling systems), shall have been submitted to and approved in writing by the ACC. The ACC may consider such subjective criteria as compatibility with surrounding structure design as well as objective criteria as to the quality of materials, exterior residence and trim paint color, roof material and color, and engineering in making an approval or disapproval. The following specific criteria must also be met:

- a. The Owner's exterior paint and trim colors must be selected from the ACC's preapproved color combination book; and
- b. The Owner's roofing material must be a 25-year architectural grade composition with a color selected from the ACC's preapproved color book; and
- c. Any storage shed must not be greater than ten feet (10') by twenty feet (20') by ten feet (10') in height from the ground to the top of the roof ridge and the surface materials, the roofing, and the color scheme shall be identical to the residence building, unless a specific waiver is obtained from the ACC.

In the event the ACC fails to approve, disapprove, or specify the deficiency in such plans, specification and location within thirty (30) days after submission to the ACC in such form as they may require, approval will not be required and this Article will be deemed to have been fully complied with.

9.2 Enforcement. The ACC may in its own name or direct the Association to exercise all available legal and equitable remedies available to prevent or remove any unauthorized or unapproved construction or improvements on any lot or property or any portion thereof. In the event the ACC exercises its right to remove or restrain the violation of any rule, the ACC shall recover liquidated damages not to exceed \$500.00 in addition to its attorney fees and court costs as a means to reimburse those ACC members for their time and effort.

- 9.3 Waivers. The approval of any plans, drawings, or specifications for any plans, improvements, or construction, or for any matter requiring the approval of the ACC shall not be deemed a waiver of any right to withhold approval of any similar plan, drawing, specifications, or matter subsequently for approval.
- 9.4 Liability. Neither the ACC nor any member thereof shall be liable to the Association, to any Owner, or to any other party for any damage suffered or claimed on account of any act, action, or lack thereof, or conduct of the ACC or the respective members thereof, acted in good faith on the basis of information they then possessed.

ARTICLE TEN

Common Areas

Declarant intends to establish several common areas for the mutual benefit of all Owners. These common areas are designated in the final plat of Southpoint Subdivision No. 1 as Lot 1, Block 1, Lot 1, Block 2, Lot 1, Block 3, Lot 1, Block 5, Lot 1, Block 6, Lot 1, Block 9, hereinafter referred to as Group 1 - Common Area Lots, and Lot 1, Block 4, Lot 7, Block 4, Lot 20, Block 4, Lot 1, Block 7, Lot 11, Block 5, Lot 1, Block 8, Lot 1, Block 10, hereinafter referred to as Group 2 - Common Area Lots and Storm Drain Seepage Area Beds. The use, control, and maintenance of these common areas shall be as follows:

- 10.1 Group 1 lots are center street islands and open areas.
- 10.2 Group 2 lots are drainage and open areas.
- 10.3 Common Rights. Each lot Owner shall have an in common and perpetual access easement with all other Owners for use within the purposes set forth above, which use and easement shall run with the Owner's lot.
- 10.4 In the event that Declarant does not transfer ownership of the pressurized irrigation system (as described in Article Eight) to Nampa and Meridian Irrigation District, and the same is thereafter transferred to the Association, ownership by the Association shall be held in common for the benefit of all lot owners, and the duty to operate and maintain the pressurized system shall be the responsibility of the Association in the same manner as it operates and maintains the common area lots.
- 10.5 Declarant's Conveyance. Declarant shall convey title to these common area lots to the Association before FHA/HUD insures any mortgage on any other lot, which title shall be free and clear

of any liens or encumbrances other than those indicated on the Plat and/or as set forth herein.

- 10.6 Association's Duty to Maintain. In addition to other duties required of the Association, the Association shall maintain all common area lots. No individual liability shall be imposed on Declarant or any Owner for damages to a common area, except to the extent that his direct negligence is the cause of that damage.
- 10.7 Mortgage on Common Area. No mortgage shall be placed on a common area lot without the written consent of two-thirds (2/3) of all lot Owners, excluding the consent of Class B member-owners. If a mortgage is placed on a common area lot, it shall be subject to and inferior to the use and easement rights granted to all Owners.
- 10.8 Easements for Improvements in a Common Area. Declarant reserves access to the common area to construct and establish improvements and landscaping as Declarant deems appropriate. Irrespective of this reservation, Declarant shall not be the owner of these improvements nor shall Declarant be required to maintain a common area. That responsibility shall be the responsibility of the Homeowners Association. The Association however shall have the sole and exclusive right to determine the nature of all improvements that Declarant may choose to construct unless there is a special reservation in this Declaration.

ARTICLE ELEVEN

Future Development and Annexation

- 11.1 Annexation. Declarant presently intends, or may hereafter intend, to annex and develop property adjacent to property hereinabove described to be known as Southpoint Subdivisions #2, #3, and #4. The annexed property may at Declarant's sole discretion, be used and developed for any purpose allowed under appropriate zoning regulations. Such annexed property may be brought within the provisions of this Declaration by Declarant, its successors or assigns at any time and from time to time, without the approval of any owner, the Association, or the Association's Board of Directors.
- 11.2 Additional Properties. Subject to the provisions of Section 11.1 above, all provisions contained in this Declaration shall apply to the annexed property in the same manner as if it were originally covered by this Declaration, subject to such modifications, changes, and deletions as may be specifically provided in any Supplemental Declaration as described in Section 11.3 below. All Owners of lots located in the annexed

property shall become members of the Association, and shall have all rights and duties of an Association member, from and after the recordation of the first deed conveying a lot within the annexed property from Declarant to an individual purchaser of a lot in the annexed property.

11.3 Procedure for Annexation. The annexation of additional property authorized under Section 11.1 above shall be made by filing of record a Supplemental Declaration, or other similar instrument, particularly describing the property being annexed, which instrument shall be executed by Declarant or the owner of the annexed property, and state the intent that the general plan and scheme of this Declaration shall be extended to the additional property described subject to such changes, modifications, deletions, and additions as are applicable to such additional property set forth in the Supplemental Declaration. Such Supplemental Declaration may contain such additions, modifications, or declarations of the covenants, conditions, restrictions, reservations of easements, and equitable servitude contained in this Declaration as may be deemed by the Declarant to be desirable to reflect the different character, if any, of the annexed property or as Declarant may deem appropriate in the development of the annexed property. The filing of record of said Supplemental Declaration shall constitute and effectuate the annexation of the property described in the Supplemental Declaration, and thereupon such annexed property shall become and constitute a part of the property as described hereinabove and shall become subject to this Declaration and encompassed within the general plans and scheme of covenants, conditions, restrictions, reservation of easements, and equitable servitude contained herein and as modified by such Supplemental Declaration for the annexed property, and further shall become subject to the functions, powers, and jurisdiction of the Association, and the Owners of lots in the annexed property shall immediately become members of the Association.

11.4 Designation of Common Area. Any common area and common facilities designated by Declarant as such on the plat of the newly annexed additional property or in the Supplemental Declaration applicable thereto, or which may be acquired by or conveyed to the Association by Declarant, shall be subject to the same easements or other rights for the use and enjoyment of the Owners as for the other Owners of lots subject to this Declaration.

11.5 Approval for Annexation. In addition to the foregoing requirements, and as long as there is Class B membership in

the Association, annexation must have HUD/VA approval before becoming effective.

ARTICLE TWELVE

General Provisions

- 12.1 Enforcement. The Association, as well as any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision hereof, and all other provisions of this Declaration shall remain in full force and effect.
- 12.3 Term. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is filed of record. After completion of the initial term of twenty (20) years, this Declaration shall be automatically extended for successive periods of ten (10) years.
- 12.4 Amendment. This Declaration may be amended only with the written approval of two-thirds (2/3) of the Owners. However, as long as there is a Class B membership, the amendment of these articles will require the approval of HUD/VA.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration of Covenants, Conditions, and Restrictions this 25 day of September, 1997.

BOULDER CREEK ASSOCIATES, L.L.P.

By  _____

Member-Partner

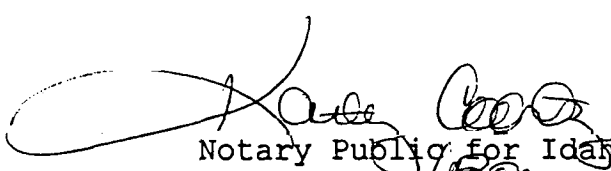
STATE OF IDAHO)
) ss.
County of Ada)

On this 25 day of September, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared FRANK S. VAHRENWALD the PERMANENT of Boulder Creek Associates, L.L.P., an Idaho limited liability partnership, known to me to be the person who executed the within and foregoing instrument for and on behalf of said limited liability partnership, and acknowledged to me that said limited liability partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

KATHY COONTZ
★ NOTARY PUBLIC ★
STATE OF IDAHO

MY COMMISSION EXPIRES 8-15-02
RESIDING AT BOISE, IDAHO


Notary Public for Idaho
Residing at Boise
Commission expires 8-15-2002

97 OCT 9 1964
FEE 10 Fee DEP Jackson
RECORDED AT THE REQUEST OF

SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOUTHPOINT SUBDIVISION NO. 2

THIS SUPPLEMENTAL DECLARATION is made on this 22nd day of June, 1998, and is effective the date it is recorded in the records of Ada County, Idaho.

It is made by Boulder Creek Associates, L.L.P., an Idaho limited liability partnership, which is hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of certain real property in Ada County, Idaho, hereinafter referred to as "Supplemental Property", which is more particularly described as follows:

Lots 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41, all in Block 4; and Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, all in Block 11; and Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, all in Block 9; and Lots 1, 2, 3, 4, 5, 6, and 7, all in Block 12; and all within the official Plat of Southpoint Subdivision No. 2, according to the official plat thereof recorded as Instrument No. 98049193, recorded in Book 76 of Plats at pages 7914-7915, records of Ada County, Idaho; and

WHEREAS, Declarant previously platted Southpoint Subdivision No. 1, according to the official plat, records of Ada County, Idaho, and caused certain covenants, conditions, and restrictions to be placed against all lots in Southpoint Subdivision No. 1 by recording a "Declaration of Covenants, Conditions, and

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
SOUTHPOINT SUBDIVISION NO. 2 - Page 1

ADA COUNTY RECORDER

DAVID NAVARRO
BOISE, IDAHO

RECORDED - REQUEST OF

1200
98060263

1998 JUN 23 AM 10:35

Restrictions for Southpoint Subdivision No. 1", as Instrument No. 97079120, records of Ada County, Idaho, hereinafter "Initial Declaration"; and

WHEREAS, Declarant established by that Initial Declaration a method of integration and annexation of future Southpoint subdivisions and now desires to follow that method and make the covenants, conditions, and restrictions of the Initial Declaration applicable to and run with the land and lots constituting the Supplemental Property, except as to specific modifications as are set forth below; and to integrate the Supplemental Property into the control of the Southpoint Homeowners Association;

NOW THEREFORE, Declarant hereby declares that all of the Supplemental Property is in effect annexed to the property described in the Initial Declaration; and that the Supplemental Property lot Owners shall become members of the Southpoint Homeowners' Association, Inc., and be subject to the rights and duties of membership; and that the Supplemental Property shall be subject to all of the easements, conditions, covenants, restrictions, and reservations set forth in the Initial Declaration, except as to specific additions, changes, and deletions (hereinafter "modifications") as are hereinafter described and that the Initial Declaration, as modified, shall constitute covenants that run with the Supplemental Property and shall bind all persons taking title from or through the Declarant and shall inure to the benefit of all Owners of the Supplemental Property; and subject to the following:

The modifications to the Initial Declaration to affect Southpoint Subdivision No. 2, according to the official plat thereof, records of Ada County, Idaho, are as follows:

1. In Article One, paragraph 1.7 of the Initial Declaration, "Owner" shall also refer to a lot which is described as a part of the Supplemental Property.

2. In Article One, paragraph 1.8 of the Initial Declaration, "Plat" shall also mean the recorded plat of Southpoint Subdivision No. 2, official records of Ada County, Idaho.

3. In Article One, paragraph 1.9 of the Initial Declaration, "setback" shall also include a reference to the plat of Southpoint Subdivision No. 2.

4. In Article Ten of the Initial Declaration, entitled "Common Areas", Declarant intends to establish two additional common areas for the benefit of all Owners. These additional common area lots as designed in the final plat of Southpoint Subdivision No. 2 as Lot 33, Block 4, and Lot 13, Block 11, are lots primarily used as drainage collection centers. These additional common areas are subject to the same use, control, and maintenance rights and duties by the Southpoint Homeowner's Association as are all other common areas described in the Initial Declaration.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration of Covenants, Conditions, and Restrictions the day above first written.

BOULDER CREEK ASSOCIATES, L.L.P.

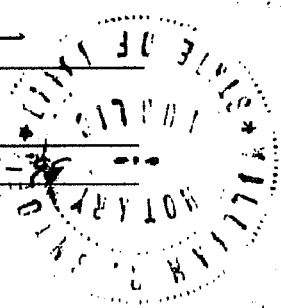
By: Frank S. Variale
Member-Partner

STATE OF IDAHO)
) ss.
County of Ada)

On this 22nd day of June, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Frank S. Variale, the Member-Partner of Boulder Creek Associates, L.L.P., an Idaho limited liability partnership, known to me to be the person who executed the within and foregoing instrument for and on behalf of said limited liability partnership, and acknowledged to me that said limited liability partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

[Signature]
Notary Public for Idaho
Residing at Boise, Idaho
Commission expires 4-15-99

A circular notary seal for Frank S. Variale, Notary Public for Idaho. The seal contains the text "FRANK S. VARIALE", "NOTARY PUBLIC", "IDAHO", and "COMMISSION EXPIRES 4-15-99".



107106320

NOTICE OF ANNEXATION AND SUPPLEMENTAL
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
STONYFIELD FARM SUBDIVISION
AND
STONYFIELD FARM SUBDIVISION NO. 2

This Declaration is made effective on the 19 day of July, 2007, by Southpoint Homeowners Association, Inc., an Idaho non-profit corporation, and Gary Schweiger, Judith L. Schweiger, hereinafter collectively referred to as "Declarant," as follows:

WHEREAS, Declarant, or their successors in interest, have previously developed and platted Southpoint Subdivision No. 1, Southpoint Subdivision No. 2, Southpoint Subdivision No. 3, and Southpoint Subdivision No. 4, records of Ada County, Idaho; and

WHEREAS, there have previously been filed of record certain covenants, conditions, and restriction to be placed against all lots in said subdivisions by recording a "Declaration of Covenants, Conditions and Restrictions for Southpoint Subdivision No. 1 as Instrument No. 97079120, records of Ada County, Idaho, as amended by Instrument No. 98060262, records of Ada County, Idaho, hereinafter referred to as the "Initial Declaration;" and

WHEREAS, Declarants' predecessors established by that Initial Declaration a process of integration and annexation of future subdivisions and did already integrate and annex Southpoint Subdivision No. 2, according to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 2, recorded as Instrument No. 98060263, records of Ada County, Idaho; and did already integrate and annex Southpoint Subdivision No. 3, according to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 3, recorded as Instrument No. 99076098, records of Ada County, Idaho, and did already integrate and annex Southpoint Subdivision No. 4, according to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 4, recorded as Instrument No. 102039956, records of Ada County, Idaho; and

WHEREAS, the Declarants now desire to follow the same process and make the covenants, conditions, and restrictions of the Initial Declaration applicable to and run with the land and lots constituting the Supplemental Properties, except as to the lot excluded therefrom, and subject to the specific modifications as are set forth below; and

to integrate the Supplemental Properties into the control of the Southpoint Homeowners Association, Inc, except as otherwise limited or modified as set forth below.

WHEREAS, Declarants, Gary Schweiger and Judith L. Schweiger, husband and wife, are the owners of certain real property in the County of Ada, State of Idaho, hereinafter referred to as the "Supplemental Properties," and more particularly described as follows:

Stonyfield Farm Subdivision, according to the official plat thereof, recorded as Instrument No. 106146914, in Book 96 of Plats, at pages 11891 through 11892, inclusive, records of Ada County, Idaho, EXCEPT for Lot 6, Block 3.

AND

A parcel of land situate in the southeast quarter of the northeast quarter of Section 22, Township 3 North, Range 1 East, Boise Meridian, Boise City, Ada County, Idaho, being more particularly described as follows:

**Commencing at the east quarter-section of Section 22, Township 3 North, Range 1 East, Boise Meridian;
Thence N00°00'25"W, 298.00 feet along the east line of the northeast quarter;
Thence N89°50'47"W, 593.68 feet along the boundary, and easterly extension thereof, of Southpoint Subdivision No. 1 as recorded in Book 73 of Plats at Pages 7581 thru 7583, records of Ada County;
Thence N00°00'25"W, 366.82 feet along the boundary of Southpoint Subdivision No. 1 and Southpoint Subdivision No. 3, as recorded in Book 78 of Plats at Pages 8223 thru 8225, records of Ada County, to the POINT OF BEGINNING:**

Thence N00°00'25"W, 181.50 feet along the boundary of Southpoint Subdivision No.3;

Thence S89°50'34'E, 260.00 feet along the boundary of Southpoint Subdivision No.3;

Thence S00°00'25"E, 181.47 feet to the northerly right-of-way line of S. Stonyfield Avenue;

Thence N89°51'01"W, 260.00 feet along the northerly right of-way line of S. Stonyfield Avenue to the POINT OF BEGINNING.

NOW, THEREFORE, Declarants hereby declare that all of the said property constituting Stonyfield Farm Subdivision, as described herein, is and shall be held and conveyed upon and subject to the easements, conditions, covenants, restrictions and reservations set forth in the Initial Declaration of Covenants, Conditions and Restrictions for Southpoint Subdivision No. 1, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said property. Said easements, covenants, restrictions, conditions and reservations shall constitute covenants to run with the land and shall be binding upon all persons claiming under them, and these conditions, covenants, restrictions, easements and reservations, shall inure to the benefit of and be limitations upon all future owners of said property or any interest therein.

Pursuant to Article Eleven of the Initial Declaration, the Declarant hereby supplements said Declaration with the following additional or different covenants, conditions, restrictions, reservations and easements, which shall be applicable only to

1. Article Ten of said Initial Declaration is hereby amended by the addition of the following provisions:

“Common Area” for Stonyfield Farm Subdivision shall include the following lots:

Lot 1, Block 2, and Lot 1, Block 4, Stonyfield Farm Subdivision.

2. The Association shall only exercise architectural control regarding the construction of residences in Stonyfield Farm Subdivision with respect to approval of the exterior color scheme, and written approval shall be required from the Architectural Control Committee for any residential construction of less than 2,000 square feet in size. Gary Schweiger and Judith L. Schweiger, as the developers of Stonyfield Farm Subdivision, shall impose and enforce the Architectural Control Guidelines as attached hereto and incorporated herein as Exhibit “A” for Stonyfield Farm Subdivision during the initial construction of residences in the subdivision, and the same shall thereafter apply as requirements for Stonyfield Farm Subdivision.

3. The following additional restrictions shall be applicable to Stonyfield Farm Subdivision No. 2:

3.1. Vehicular Access. Vehicular access to Lots 1-5, Block 1, Stonyfield Farm Subdivision No. 2 shall be provided from the common driveway and not from South Stonyfield Avenue. Setbacks for required parking shall be a minimum of 20-feet from

the edge of the build common driveway, or property line whichever is more restrictive, and parking on the common driveway is prohibited.

3.2 Maintenance of Driveways and Cross Easement. Each Owner of a lot in Stonyfield Subdivision No. 2 hereby agrees as follows with respect to the common driveways and cross-easement property:

(a) The Owners shall equally share the cost of maintenance and repair of the road surface and other improvements on the real property comprising the common driveway and cross easement.

(b) The easement shall at all times remain open and unobstructed and there shall be no fences, gates, traffic calming or other restrictive devices or other obstructions which interfere in any manner with the free and open use of the easement property.

(c) Each Owner shall indemnify and hold harmless the other Owners from any loss, damage, injury or death arising out of the use of the easement property or the failure and neglect of a party to perform any and all obligations incumbent upon such party to perform under this Agreement.

(d) The above restrictions and all rights and obligations arising or described herein are intended to be perpetual burdens and covenants running with the titles to Lots in Stonyfield Farm Subdivision No. 2, and shall be binding upon and inure to the benefit of the Owners thereof and their respective successors in title.

Southpoint Homeowners Association, Inc., hereby certifies that the above and foregoing Annexation and Supplemental Declaration was duly approved pursuant to Article Eleven and Section 12.4 of the Initial Declaration with the written approval of two-thirds (2/3) of the Owners.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 19 day of JULY, 2007.

Southpoint Homeowners Association, Inc.

By: T. M. A. K. O. N.
President

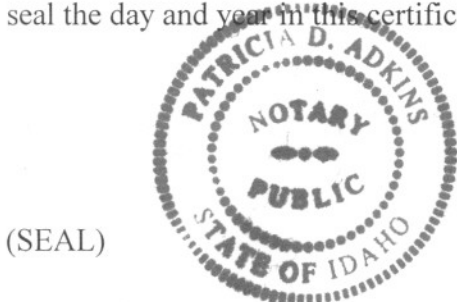
Gary Schweiger
Gary Schweiger

Judith L. Schweiger
Judith L. Schweiger

STATE OF IDAHO)
 :SS
County of Ada)

On this 17th day of July, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Trent Kaci, known or identified to me to be the President of Southpoint Homeowners Association, Inc., the corporation that executed the within and foregoing instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Patricia D. Adkins
Notary Public for Idaho
Residing at: Canyon Co., Idaho
My Commission Expires: 11-3-11

STATE OF IDAHO)
 :SS
County of Ada)

On this 28th day of June, 2007, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gary Schweiger and Judith L. Schweiger, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Cindy Breshears
Notary Public for Idaho
Residing at MERIDIAN, IDAHO
My Commission Expires: 8-06-2010

The Boulder Creek Home Owners Association is proposing the two attached amendments to our CC & R's. The first amendment addresses properties in which a homeowner is not keeping their property properly maintained, to a point in which it has a negative impact on the neighboring properties. This amendment would allow the Homeowners Association to hire a contractor to fix the maintenance issues and place a lien on the offending property. The association would give the homeowner ample notice and time to fix the problem before taken such actions.

The second amendment addresses the maintenance of individual homeowner's fences. This amendment would also allow the Homeowner's Association to take the necessary steps to address maintenance issues with fences in the event that a homeowner does not properly address fence repair issues after proper notice of the violations.

These amendments are not meant to infringe on individual property owners rights, but are meant to protect everyone's property value in the event that a neighboring property falls into disrepair.

If you have any questions, please feel free to contact one of the Homeowner's Association Board Members listed below:

AMENDMENT NUMBER ONE:

1. A new Subsection d is hereby added to Section 2.4, as follows:

- d. It shall be the responsibility of each Owner to maintain the landscaping and exterior of the Owner's Lot in a manner which does not adversely affect property values and which shall be inoffensive to neighboring properties and the Subdivision. Without limitation, weeds, unkempt front yards and unsightly conditions are considered a violation of these restrictions. In the event that the Board determines that an Owner is in violation of this provision, written notice of the violations shall be provided to the Owner who shall then have fourteen (14) days in which to remedy the violations set forth in the notice. In the event that an Owner fails to remedy such violations within said time period, the Association may cause the violations to be remedied, in which event the cost and expense thereof shall be assessed to the offending Owner and shall become a lien against the Owner's Lot and enforceable as a special and limited assessment in the manner set forth for other assessments in Article Five herein.

AMENDMENT NUMBER TWO:

1. A new Subsection f is hereby added to Section 2.5, as follows:

- f. In the event that an Owner installs a fence upon the Owner's Lot, it shall thereafter be the responsibility of the Owner to properly maintain, repair and replace the fence in good condition and appearance. In addition to regular repainting and/or re-staining the fence, fences shall not be allowed to come into disrepair, be blown down by wind or otherwise and not repaired or replaced. In the event that the Board determines that an Owner is in violation of this provision, written notice of the violations shall be provided to the Owner who shall then have fourteen (14) days in which to remedy the violations set forth in the notice. In the event that an Owner fails to remedy such violations within said time period, the Association may cause the violations to be remedied, in which event the cost and expense thereof shall be assessed to the offending Owner and shall become a lien against the Owner's Lot and enforceable as a special and limited assessment in the manner set forth for other assessments in Article Five herein.

12.4 Amendment. This Declaration may be amended only with the written approval of two-thirds (2/3) of the owners **present at a general meeting so long as a quorum is present.**

**SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SOUTHPOINT SUBDIVISION NO. 3**

This **SUPPLEMENTAL DECLARATION** is made on this 30th day of July, 1999, and is effective the date it is recorded in the records of Ada County, Idaho.

It is made by Boulder Creek Associates, L.L.P., an Idaho Limited Liability Partnership, which is hereinafter referred to as "*Declarant*."

WHEREAS, *Declarant* is the owner of certain real property in Ada County, Idaho, hereinafter referred to as "*Additional Supplemental Property*," which is more particularly described as follows:

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, all in Block 6; Lots 2, 3, 4, 5, 6, 7, 8, and 9, all in Block 7; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, all in Block 8; Lot 30 in Block 9; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21, all in Block 13; Lot 1 in Block 14; and Lot 6 in Block 15; all within the official Plat of Southpoint Subdivision No. 3, according to the official plat thereof recorded as Instrument No. 99048985, recorded in Book 78 of Plats at Pages 8223 through 8225, records of Ada County, Idaho; and

WHEREAS, *Declarant* previously platted Southpoint Subdivision No. 1, according to the official plat, records of Ada County, Idaho, and caused certain covenants, conditions, and restrictions to be placed against all lots in Southpoint Subdivision No. 1 by recording a "Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 1," as Instrument No. 97079120, and as amended by Instrument No.

98060262, records of Ada County, Idaho, hereinafter "*Initial Declaration*"; and

WHEREAS, *Declarant* established by that *Initial Declaration* a process of integration and annexation of future Southpoint subdivisions, and following that process, *Declarant* did make and record a Supplemental Declaration for Southpoint Subdivision No. 2, dated March 22, 1998, and did cause the same to be recorded on June 23, 1998, as Instrument No. 98060263, identifying "*Supplemental Property*," which was annexed to the property described in the *Initial Declaration*, all according to the terms and conditions of the Supplemental Declaration; and

WHEREAS, *Declarant* again desires to follow that process and make the covenants, conditions, and restrictions of the *Initial Declaration* applicable to and run with the land and lots constituting the *Additional Supplemental Property*, except as to specific modifications as are set forth below; and to integrate the *Additional Supplemental Property* into the control of the Southpoint Homeowners' Association;

NOW THEREFORE, *Declarant* hereby declares that all of the *Additional Supplemental Property* is in effect annexed to the property described in the *Initial Declaration* and to the property described in the Supplemental Declaration for Southpoint Subdivision No. 2; and that the *Additional Supplemental Property* lot Owners shall also become members of the Southpoint Homeowners' Association, Inc., and be subject to the rights and duties of membership; and that the *Additional Supplemental Property* shall be subject to all of the easements, conditions, covenants, restrictions, and

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
SOUTHPOINT SUBDIVISION NO. 3 - Page 2

reservations set forth in the *Initial Declaration*, and to the Supplemental Declaration for Southpoint Subdivision No. 2, except as to specific additions, changes, and deletions (hereinafter "Modifications") as are hereinafter described, and that the *Initial Declaration*, as modified, shall constitute covenants that run with the *Additional Supplemental Property* and shall bind all persons taking title from or through the *Declarant* and shall inure to the benefit of all Owners of the *Additional Supplemental Property*;

The *Modification* to the *Initial Declaration* to affect Southpoint Subdivision No. 3, according to the official plat thereof, records of Ada County, Idaho, are as follows:

1. In Article One, Paragraph 1.3 of the *Initial Declaration*, "Lot" shall mean any plot of land shown on this recorded Subdivision Map (Plat) of Southpoint Subdivision No. 3, except Lot 1, Block 13.

2. In Article One, Paragraph 1.7 of the *Initial Declaration*, "Owner" shall also refer to a lot which is described as a part of the *Additional Supplemental Property*.

3. In Article One, Paragraph 1.8 of the *Initial Declaration*, "Plat" shall also mean the recorded plat of Southpoint Subdivision No. 3, official records of Ada County, Idaho.

4. In Article One, Paragraph 1.9 of the *Initial Declaration*, "setback" shall also include a reference to the plat of Southpoint Subdivision No. 3.

5. In Article Ten of the *Initial Declaration*, entitled "Common Areas," *Declarant* now intends to establish ten additional common areas for the benefit of all Owners. These additional common area lots are designated in the final plat of Southpoint Subdivision No. 3, official records of Ada County, Idaho, as follows and with the following uses:

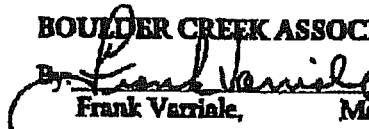
Lot 12 in Block 6; Lots 2, 4, 11, 15, and 21 in Block 13; Lot 1 in Block 14; Lot 7 in Block 8; Lot 30 in Block 9; and Lot 6 in Block 15

These common area Lots shall be used for landscaping borders and/or drainage dispersal/retention areas in a manner consistent with the plat of Southpoint Subdivision No. 3.

These additional common areas are subject to the same use, control, and maintenance rights and duties by the Southpoint Homeowners' Association as are all other common areas described in the *Initial Declaration* and the Supplemental Declaration for Southpoint Subdivision No. 2.

IN WITNESS WHEREOF, the undersigned *Declarant* has executed this Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 3 the day above first written.


BOULDER CREEK ASSOCIATES, L.L.P.


Frank Verriale, Managing Member

STATE OF IDAHO)
) ss.
County of Ada)

On this 30 day of July, 1999, before me, the undersigned, a Notary Public in and for said State, personally appeared Frank Varriale, the Managing Member of Boulder Creek Associates, L.L.P., an Idaho Limited Liability Partnership, known to me to be the person who executed the within and foregoing instrument for and on behalf of said Limited Liability Partnership, and acknowledged to me that said Limited Liability Partnership executed the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal the day and year first above written.


Notary Public for Idaho
Residing at Boise, Idaho
Commission expires 12-31-2007

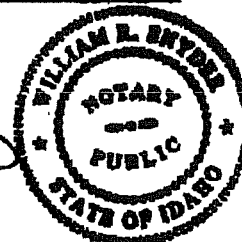

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

1999 JUL 30 AM 11:08

RECORDED - REQUEST OF

PRE 15- DEPUTY Subj

99076098



ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

2002 AP -5 AM 8:59

RECORDED-REQUEST OF

FEE

27-

DEPUTY

Ch. Overhills

102039956

PIONEER TITLE

**This sheet has been added to the document
to accommodate recording information.**

SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR SOUTHPOINT SUBDIVISION NO. 4

THIS SUPPLEMENTAL DECLARATION is made on this 3RD day of April, 2002, and is effective the date it is recorded in the records of Ada County, Idaho.

It is made by Primeland Development Company, L.L.P., an Idaho limited liability partnership, which is hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain real property in Ada County, Idaho, hereinafter referred to as "Supplemental Property," which is more particularly described as follows:

Lots 15 through 60, inclusive, in Block 12; Lots 16 through 40, inclusive, in Block 15; and all within the official Plat of Southpoint Subdivision No. 4, according to the official plat thereof recorded as Instrument No. 102032842, recorded in Book 83 of Plats at pages 9203 through 9205, official records of Ada County, Idaho; and

WHEREAS, Declarant's predecessor, Boulder Creek Associates, L.L.P. (hereinafter "Declarant's Predecessor"), previously platted Southpoint Subdivision No. 1, according to the official plat, records of Ada County, Idaho, and caused certain covenants, conditions, and restrictions to be placed against all lots in Southpoint Subdivision No. 1 by recording a "Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 1," as Instrument No. 97079120, records of Ada County, Idaho, as amended by Instrument No. 98060262, records of Ada County, Idaho, hereinafter "Initial Declaration"; and

WHEREAS, Declarant's Predecessor established by that Initial Declaration a process of integration and annexation of future Southpoint subdivisions and did already integrate and annex Southpoint Subdivision No. 2, according to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 2, recorded as Instrument No. 98060263, records of Ada County, Idaho; and did already integrate and annex Southpoint Subdivision No. 3, according to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 3, recorded as Instrument No. 99076098, records of Ada County, Idaho; and

WHEREAS, Declarant, as the successor in interest to the Predecessor Declarant, now desires to follow the same process and make the covenants, conditions, and restrictions of the Initial Declaration applicable to and run with the land and lots constituting the Supplemental Property, except as to specific modifications as are set forth below; and to integrate the Supplemental Property into the control of the Southpoint Homeowners Association, except as otherwise limited or modified as set forth below;

NOW THEREFORE, Declarant hereby declares that all of the Supplemental Property is in effect annexed to the property described in the Initial Declaration and to the property described in the Supplemental Declaration of Covenants, Conditions, and Restrictions for Southpoint Subdivision No. 2 and Southpoint Subdivision No. 3; and that the Supplemental Property lot Owners shall become members of the

Southpoint Homeowners Association, Inc., and be subject to the rights and duties of membership; and that the Supplemental Property shall be subject to all of the easements, conditions, covenants, restrictions, and reservations set forth in the Initial Declaration, except as to specific additions, changes, and deletions (hereinafter "Modifications") as are hereinafter described; and, that the Initial Declaration, as modified, shall constitute covenants that run with the Supplemental Property in addition to other Covenants, Conditions, and Restrictions set forth in this Supplemental Declaration, and shall bind all persons taking title from or through the Declarant and shall inure to the benefit of all Owners of the Supplemental Property; all subject to the following:

The Modifications to the Initial Declaration to affect Southpoint Subdivision No. 4, according to the official plat thereof, records of Ada County, Idaho, are as follows:

1. In Article One, paragraph 1.7 of the Initial Declaration, "Owner" shall also refer to the owner of a lot which is described as a part of the Supplemental Property.

2. In Article One, paragraph 1.8 of the Initial Declaration, "Plat" shall also mean the recorded plat of Southpoint Subdivision No. 4, official records of Ada County, Idaho.

3. In Article One, paragraph 1.9 of the Initial Declaration, "setback" shall also include a reference to the plat of Southpoint Subdivision No. 4.

4. Article Two, paragraph 2.2 of the Initial Declaration, entitled "Residence Construction," shall be modified for specific lots within Southpoint Subdivision No. 4, with the effect that specific lots identified below, shall be subject to additional Covenants, Conditions, and Restrictions, in addition to those already identified as subparagraphs "a," "b," "c," and "d," of the Initial Declaration, as follows:

- e. Residences constructed on Lots 17, 18, 19, 25, 26, and 35 of Block 12, all of Southpoint Subdivision No. 4, shall be limited to one "story" residences. The definition of "one story" shall not prohibit a "bonus" room created in the truss or rafter system. A dormer shall be permitted when facing east and away from Quail Run Subdivision No. 1, providing that it has been specifically approved by the Southpoint No. 4 Architectural Subcommittee.
- f. Special outbuildings shall be permitted on Lots 18, 19, 25, 26, 35, and 37 through 55, inclusive, of Block 12, all of Southpoint Subdivision No. 4, provided they meet the following criteria:
 - (i) They shall conform in appearance and materials to the appearance and materials used in construction of the residence; and
 - (ii) They shall not exceed 1000 square feet in total size or the maximum square foot size permitted by the Boise City Building Code, whichever size is the lesser; and
 - (iii) The front of a permitted special outbuilding shall not be farther forward of the rear Lot line than the rear building line of the primary residence. The permitted special outbuilding shall in all other respects comply to rear and

side Lot setbacks indicated on the Plat and under the Boise City Building Code; and

- (iv) The use of the permitted special outbuilding must be a permitted use under Boise City zoning laws; and
- (v) No Special outbuilding shall be constructed until it is also specifically approved by the Southpoint No. 4 Architectural Control Subcommittee.

5. Article Ten of the Initial Declaration, entitled "Common Areas," shall include five additional Common Areas for the benefit of all Owners. These additional Common Area lots are designed on the plat of Southpoint Subdivision No. 4, and are identified below as to lot number and primary use:

(a) Lot 20 in Block 15 will primarily be used as a park and drainage collection center.

(b) Lot 60 in Block 12 will primarily be used as a pump station for the pressurized irrigation system.

(c) Lot 50 and Lot 36 in Block 12 will primarily be used as drainage collection centers.

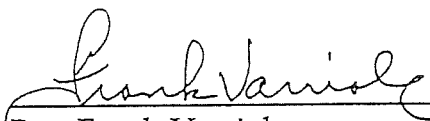
(d) Lot 43 in Block 12 will be primarily used as a pedestrian path and bridge that will cross Five Mile Creek.

These additional Common Areas are subject to the same use, control, and maintenance rights and duties by the Southpoint Homeowners Association as are all other common areas described in the Initial Declaration.

6. In addition to those covenants, conditions and restrictions in the Initial Declaration that pertain to the Pressurized Irrigation System and the Provider of pressurized irrigation water, all Lot owners in Southpoint No. 4, shall be required to install, at the Lot owner's sole and separate cost, a 3/4-inch gate valve in a separate box, to reduce the existing one-inch main line, in a manner fully illustrated on Exhibit "A" attached hereto, in the event that Nampa-Meridian Irrigation District is selected to be the service provider and requires this change as a part of their service provider contract.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration of Covenants, Conditions, and Restrictions the day above first written.

PRIMELAND DEVELOPMENT COMPANY, L.L.P.

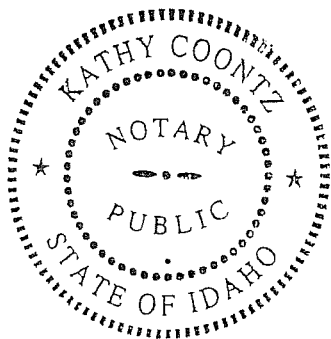



By: Frank Varriale
Its: Managing Partner

STATE OF IDAHO)
 : ss.
County of Ada)

On this 3rd day of April, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Frank Varriale, the Managing Partner of Primeland Development Company, L.L.P., an Idaho limited liability partnership, known to me to be the person who executed the within and foregoing instrument for and on behalf of said limited liability partnership, and acknowledged to me that said limited liability partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.





Notary Public for Idaho
Residing at Bow
Commission Expires 8-15-2002